

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TREVOR BAUER,

Plaintiff,

v.

CHRIS BAUD, and G/O MEDIA, INC.,

Defendants.

No.: 1:22-cv-01822-PAC

RESPONSE TO DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff Trevor Bauer (“Mr. Bauer”) respectfully submits this response to the Notice of Supplemental Authority filed by Defendants Chris Baud and G/O Media, Inc. (“Defendants”) on December 2, 2022, ECF No. 25. Defendants’ notice attaches two wholly irrelevant opinions issued by Hon. James V. Selna in *Trevor Bauer v. Lindsey Hill, et al.*, No. 8:22-cv-00868-JVS-ADS. Aside from the fact that the plaintiff is the same, the *Hill* case is completely distinct from the instant case. No issues of law or fact from the *Hill* opinions relate—in any way—to the claims raised in the instant Complaint nor the arguments involved in Defendants’ pending motion to dismiss. Accordingly, the Court should disregard Defendants’ Notice of Supplemental Authority.

The pending motion to dismiss asks the Court to decide whether the three unique defamatory statements challenged in the Complaint are substantially true or otherwise unactionable (which they are not). Neither of Judge Selna’s opinions bears on those issues. In one, Judge Selna decided whether comments by Ms. Hill’s attorney to *The Washington Post* were defamatory. The statements published in *The Washington Post* did not involve the statements by Defendants at issue in this case falsely reporting that Mr. Bauer fractured Ms. Hill’s skull and mischaracterizing Mr. Bauer’s denial of responsibility for such a fracture. In addition to involving entirely different statements, Judge Selna’s ruling also turned on the separate issue of the privilege

available to attorneys under California law when commenting on their cases. Defs.’ Ex. 1 at 9-10. The other opinion Defendants submit does not relate to defamation at all. Rather, it reflects Judge Selna’s application of the doctrine of collateral estoppel to Ms. Hill’s counterclaim in that case. Those rulings do not inform whether the specific statements published by *Deadspin* were false. Indeed, the words “skull” or “fracture” do not even appear in either opinion.

For these reasons, the Court should disregard Defendants’ irrelevant Notice of Supplemental Authority.

Dated: December 6, 2022

Respectfully submitted,

/s/ Blair G. Brown

Blair G. Brown
Jon R. Fetterolf
ZUCKERMAN SPAEDER LLP
1800 M Street, NW, Suite 1000
Washington, DC 20036
(202) 778-1800
bbrown@zuckerman.com
jfetterolf@zuckerman.com

Shawn P. Naunton
Nell Z. Peyser
Mark J. Feaster
ZUCKERMAN SPAEDER LLP
485 Madison Avenue, 10th Floor
New York, NY 10022
(212) 704-9600
snaunton@zuckerman.com
npeyser@zuckerman.com
mfeaster@zuckerman.com

Attorneys for Plaintiff